

REMARKS

Formal Matters

Claims 1-19 and 29 are pending after entry of the amendments set forth herein.

Claims 5, 15 and 19 are withdrawn from current consideration.

Claims 1-4, 6-14, 16-18 and 29 were examined. Claims 1-4, 6-14, 16-18 and 29 were rejected.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Office Action

Claims Rejected Under 35 U.S.C. Section 112, Second Paragraph

In the Official Action of April 10, 2007, claims 1-4, 6-14 and 16-18 were rejected under 35 U.S.C. Section 112, second paragraph as being indefinite. The Examiner asserted that the phrase “means associated with said at least one microbead particle for enabling or enhancing chemical conjugation between said at least one microbead particle and a ligand” was considered to be vague and indefinite. Without acquiescing to this assertion, since Applicants do not agree, Applicants have nevertheless amended claim 1 above for further clarity and to advance the prosecution of the instant application. It is respectfully submitted that the amended language is literally supported in paragraph [0013] of the specification.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-4, 6-14 and 16-18 under 35 U.S.C. Section 112, second paragraph as being indefinite, as being no longer appropriate.

Claims Rejected Under 35 U.S.C. Section 102(a) and (e) (Ravkin et al.)

Claims 1-4, 6-7, 17-18 and 29 were rejected under 35 U.S.C. Section 102(a) and 102(e) as being anticipated by Ravkin et al., U.S. Patent No. 6,908,737. Applicants repeat their remarks made in the

previous amendment that this ground of rejection should be under 35 U.S.C. Section 102(e) and not 35 U.S.C. Section 102(a) and Applicants reserve the right to swear behind Ravkin et al.

The Examiner asserted, inter alia, that the claimed transducing layer reads on the polymeric material of Ravkin et al., since the Examiner interpreted the present specification to define transducing layer as any suitable material that is detectable by any chemical or physical means, which the Examiner interpreted to include the polymeric material of Ravkin et al. In response thereto, Applicants have amended claims 1 and 29 above to further specify that said transducing layer is selected from the group consisting of: silver-containing films, indium-containing films, antimony-containing films and tellurium-containing films. Support for this amendment can be found, for example in paragraph [0051] of the present specification. It is respectfully submitted that Ravkin et al. clearly fails to disclose a transducing layer as presently claimed.

Claims 4 and 6 depend from claim 1 and it is respectfully submitted that these claims are also not properly anticipated by Ravkin et al., for at least the same reasons as those provided above.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-4, 6-7, 17-18 and 29 under 35 U.S.C. Section 102(a) and 102(e) as being anticipated by Ravkin et al., U.S. Patent No. 6,908,737, as being clearly inappropriate.

Claims Rejected Under 35 U.S.C. Section 103(a) (Ravkin et al. in view of Tompkin et al.)

Claims 8-14 and 16 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Ravkin et al., U.S. Patent No. 6,908,737 in view of Tompkin et al., U.S. Patent No. 5,754,520.

It is respectfully submitted that claims 8-14 and 16 depend ultimately from claim 1, and are allowable over this combination of references for at least the same reasons submitted for the allowability of claim 1 over Ravkin et al. above, since Tompkin et al. does nothing to cure the deficiencies of Ravkin et al. in meeting all of the recitations of claim 1.

Accordingly, in view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 8-14 and 16 under 35 U.S.C. Section 103(a) as being unpatentable over Ravkin et al., U.S. Patent No. 6,908,737 in view of Tompkin et al., U.S. Patent No. 5,754,520, as being inappropriate.

Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at 408-736-3554.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078, order number 10030589-1.

Respectfully submitted,

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